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AUTHORITY: Secs. 121, 122, 402 (12) and (14) and 420 of Pub. L. 93-113, 87 Stat. 395, 400, 401, 407 and 414.

SOURCE: 40 FR 10670, Mar. 7, 1975, unless otherwise noted.

Subpart A—General

§ 1213.1-1 Introduction.

(a) Section 122(a), part C, of the Domestic Volunteer Service Act of 1973 (the Act), Pub. L. 93-113, 87 Stat. 401, authorizes the Director of ACTION to conduct and to make contracts for special volunteer programs to encourage wider volunteer participation on a full-time basis to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty. The ACTION Cooperative Volunteer Program (ACV) is one of these special volunteer programs. It provides full-time volunteer service opportunities for individuals in assignments with nonprofit and public agency sponsors involving a broad range of human, social, and environmental needs, particularly those related to poverty. Organizations wishing to become sponsors enter into an agreement with ACTION to share expenses associated with ACV volunteer assignments. The sponsor's share consists of reimbursing ACTION for the direct costs of volunteer support, i.e. allowances, stipend and other direct benefits.

(b) Section 122(b) requires that the assignment of ACV volunteers be on such terms and conditions as the Director shall determine.

(c) Section 122(c) provides that the Director may provide to persons serving as full-time volunteers in a program of at least one year's duration such allowances and stipends as he determines are necessary. The kinds and amount of such allowances and stipends may not exceed those authorized to be provided to VISTA volunteers (part A, title I, Pub. L. 93-113).

Subpart B—Description of Volunteer Service

§ 1213.2-1 Enrollment and duration of service.

ACTION enrolls an individual in ACV during the preservice processing it provides. Such enrollment is for a period comprising the time of such processing, ACTION preservice orientation, and a one-year assignment to a project.

§ 1213.2-2 Provisional volunteers.

Individuals are considered to be provisional volunteers during the period of pre-service processing and ACTION preservice orientation. They have all the rights and benefits and are subject to all the duties of volunteers, except as expressly provided in these regulations or where it would appear from the language of a section of the regulations to be inappropriate.

§ 1213.2-3 Extension of service and reenrollment.

In certain situations, a volunteer may have his period of volunteer service extended for not more than one year, at the request of a sponsor and the concurrence of the appropriate ACTION Regional Director.

A volunteer may only be reenrolled for a period of at least one year. A sponsor must request the reenrollment and it must be approved by the appropriate ACTION Regional Director. No volunteer may serve for more than a total of five years in full-time volunteer programs under Title I of Pub. L. 93-113.

Such extensions and reenrollments may be for the same or different projects and may include interregional and intraregional transfers.

§ 1213.2-4 Living conditions.

To the extent practicable volunteers are expected to make a personal commitment to live among and at the economic level of the people served by the project in which the volunteer works. The sponsor will insure that this commitment is observed.

§ 1213.2-5 Role of the volunteer.

The volunteer's assignments are carried out under the auspices of the sponsor. The volunteer assumes a "live-in"

obligation carrying his work into all facets of community life and social activity. He is available for service without regard to regular working hours seven days a week, except for periods of approved leave.

Subpart C—ACTION Provided Volunteer Support

§ 1213.3-1 Financial support.

(a) *Food and lodging.* Each ACV volunteer receives from ACTION a food and lodging allowance approximately commensurate with the actual standard of living of the residents of the community to which he is assigned. The amount of this allowance is determined by the Regional Office after consultation with the sponsor.

(b) *Personal living allowance.* ACTION also provides each volunteer a personal living allowance of \$75 per month. It is intended to cover incidental expenses and local travel.

(c) *Adjustment allowance.* At the beginning of service, a volunteer may receive from ACTION an adjustment allowance when necessary to cover the initial cost of securing and setting up living quarters. Such an allowance is usually provided only to volunteers who serve outside their home area. It is not usually available to volunteers recruited locally for an assignment in their home or nearby communities.

(d) *Stipend.* At the conclusion of the term of service, each volunteer receives a stipend of \$50 for each month of service on an ACV project. Volunteers may be authorized to make bi-weekly allotments from the stipend, not in excess of \$12.50, in extraordinary circumstances. These may include allotments for obligations incurred prior to service for family support, insurance or loan payments and income taxes.

(e) *Provisional volunteers.* Provisional volunteers do not receive any allowances nor do they accrue stipends. During the period they are provisional volunteers their food and lodging is provided by ACTION and they receive a nominal amount of money for living expenses.

(f) *Emergencies.* In case of emergencies, ACTION may provide the volunteer with assistance and support to

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prevent injury or hardship to him, including a \$500 advance against allowances and stipends due the volunteer or to be paid subsequently to him during his volunteer service.

(g) *No dependent support.* ACTION assumes no financial responsibility for a non-volunteer spouse, a volunteer's children or other dependents.

§ 1213.3-2 Transportation.

ACTION will be responsible for providing the volunteer with needed transportation for the following purposes:

(a) To, and when appropriate, from volunteer/sponsor staging;

(b) To the pre-service processing site, whether it is the ACTION Regional Office or any other designated facility;

(c) To the project site following completion of pre-service processing, and at the beginning of the volunteer's terms of service;

(d) For the return trip from the projects site to the volunteer's home of record following completion of service;

(e) Whenever necessary to enable the volunteer to travel outside the geographic area to which he has been assigned when he does so at the request of the Government;

(f) When approved in cases of emergency.

For the purpose of paragraph (d) of this section, the term "home of record" shall be either:

(1) The legal residence of the volunteer's parent or legal guardian if the volunteer had been residing with the parent or legal guardian immediately prior to entering ACTION service, or if the volunteer was a full-time student whose permanent residency was with the parent or legal guardian.

(2) The residence established by the volunteer while attending college immediately prior to entering ACTION.

(3) The residence established by the volunteer while employed immediately prior to entering ACTION.

(4) The legal residence established by the volunteer for purposes of voting and/or payment of state tax.

Each volunteer must specify a home of record at the time he is enrolled. Subsequent modification of the home of record may be authorized in certain circumstances at the discretion of the Regional Director.

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§ 1213.3-3 Health support.

ACTION provides ACV volunteers with a health benefits program at no cost to the volunteers.

Coverage includes most medical and surgical costs, hospitalization, prescription drugs, and emergency dental care. ACTION reserves the right to alter the extent, or the method of providing health care for volunteers. In nonemergency situations, the Regional Office must clear hospitalization or other serious (in excess of \$150) treatments.

§ 1213.3-4 Legal support.

ACTION will pay certain legal expenses where volunteers are involved in criminal or civil judicial or administrative proceedings to the extent provided in part 1220.

§ 1213.3-5 Insurance.

(a) ACV volunteers are covered by the Federal Employees Compensation Act. This provides a broad-based workmen's compensation-type coverage for volunteer job-related accidents and occupational sickness.

(b) ACV volunteers are also Federal employees for the purpose of the Federal Tort Claims Act. Any third-party claims for injury or damage to property arising out of the volunteer's job-related activities will be treated as claims against the United States.

§ 1213.3-6 Leave.

(a) *Vacation leave.* Once on the job for four months, an ACV volunteer earns one day of leave for each full month of service up to a maximum of seven days, including one weekend. No leave is to be granted during the last month of service, except for emergencies. During leave, the volunteer's regular support allowances are continued. No leave may be taken without the approval of the sponsor.

(b) *Emergency leave.* Should a member of a volunteer's immediate family—spouse, mother, father, sister, brother, child or guardian—become critically ill or die, emergency leave may be granted by the sponsor for a period of up to one week. Any additional time requires the approval of the ACTION Regional

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Office. It does not count against vacation leave. The volunteer will be paid for transportation by the fastest scheduled carrier to and from the emergency site and for actual travel expenses incurred, but not in excess of those authorized in standard government travel regulations.

§ 1213.3-7 Federal service.

Section 415(c) of the Act provides that should an ACV volunteer subsequently enter Federal service, his period of volunteer service counts as a like period of Federal service for certain purposes, including job security and retirement benefits.

§ 1213.3-8 Lost property.

(a) The Regional Director may at his discretion reimburse volunteers or trainees for or replace lost, damaged, or stolen property; cash representing certain allowances; and equipment and supplies if:

(1) Reimbursement is essential to the volunteer's capacity to serve effectively in his particular assignment for the duration of his service, and

(2) The loss, damage, or theft did not result from the volunteer's negligence.

(b) Lost or stolen cash may be reimbursed only if it represents the volunteer's food and lodging or living allowance or other payments essential to the volunteer's service. Lost or stolen cash representing payment of stipend or vacation allowances will not be reimbursed.

(c) No reimbursement will be made for luxury items, such as photographic or phonographic equipment or jewelry.

Subpart D—Sponsor Provided Volunteer Support

§ 1213.4-1 Training.

(a) The sponsor is fully responsible for designing and implementing a program of in-service training which will completely equip the volunteer to perform the tasks to which he has been assigned.

(b) In-service training will be conducted by the sponsor in accordance with plans agreed upon during the program development process, and submitted to ACTION as part of the agreement. Those plans must be tailored to

the volunteer's needs for additional skills and information in the performance of assigned tasks.

§ 1213.4-2 Supervision.

The sponsor has the sole responsibility for providing appropriate supervision, leadership, and direction to the volunteers in conformance with the plan prepared in cooperation with ACTION and submitted with the project proposal. The plan is to be executed in such a manner that the volunteers can attain project goals within the proposed time frame.

§ 1213.4-3 Job-related transportation.

The sponsor is responsible for determining the job-related transportation needs of the volunteer. The volunteers are expected to use public transportation in connection with their work whenever it is available and adequate. When it is not, the sponsor shall provide suitable private transportation, including obtaining and maintaining motor vehicles for the job-related use of the volunteers as appropriate. Whether the sponsor purchases vehicles or obtains them through a leasing arrangement, he is responsible for monitoring the use of those vehicles and restricting the use of transportation provided to volunteers to work on the project. The volunteer and the sponsor are jointly responsible for compliance with all state and local laws concerning vehicle registration, operator licensing, and financial responsibility on any private vehicles used by the volunteer, either as part of his work assignment or for personal convenience.

§ 1213.4-4 Supplies and equipment and office facilities.

The sponsor is responsible for providing most job-related support involving facilities, equipment, and consumable supplies needed by the volunteer, including telephone and secretarial support.

§ 1213.4-5 Emergencies.

In case of emergencies in which it is not possible for ACTION to provide a volunteer with the necessary assistance and support in time to prevent injury or hardship to him, the sponsor

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may furnish the needed assistance, including an advance of up to \$500 from its own funds to the volunteer. Such advances, however, should be cleared in advance by telephone with the ACTION Regional Director or designee.

Subpart E—Administrative Hold—Grievances, Removal, Resignation, Suspension and Termination

§ 1213.5-1 Administrative hold.

(a) Volunteers will be placed in Administrative Hold Status under the following circumstances:

- (1) No placement after training.
- (2) Pending transfer to a new project.
- (3) Leave taken for personal reasons in excess of the seven days for vacation leave, seven days for emergency leave, seven days for extension beyond three months, and fourteen days for reenrollment.
- (4) Absence from project site without authority of the sponsoring organization.
- (5) During termination action.
- (6) Arrest and placement in jail without bail, depending on nature of charges.
- (7) Removal from site at request of sponsoring organization, pending decision on transfer to new assignment.

(b) Exceptions to these guidelines must be authorized by the Regional Director. Volunteers may be placed in Administrative Hold status for up to 30 days. In exceptional circumstances, the Regional Director may extend this period of time as appropriate. The Regional Director may modify any and all allowances, including stipend, when a volunteer is placed in Administrative Hold status.

§ 1213.5-2 Volunteer grievances.

(a) At times, a volunteer will consider that he has been adversely affected in some matter arising out of his work situation or the terms and conditions of his service. The Volunteer Grievance Procedure, part 1211, furnished to each volunteer, applies to certain of these matters. This procedure is applicable to situations in which the volunteer believes there has been a deviation from, misinterpreta-

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tion or misapplication of laws, regulations, policies or procedures governing his service.

(b) The Grievance Procedure establishes a formal and informal mechanism to resolve such problems. The informal mechanism aims to resolve disputes at the level of the sponsor and the state program officer. The formal part of the Grievance Procedure provides a hearing in certain cases and includes appeals to ACTION's national office in Washington.

(c) The procedure that the sponsor employs at the informal stage of the ACTION Grievance Procedure will also be used for any disputes between the sponsor and a volunteer not involving a law or regulation or an ACTION policy and procedure.

§ 1213.5-3 Resignation.

A volunteer may resign at any time, by notifying the sponsoring organization and the Regional Office. When practicable, thirty days advance notice should be given to insure that the departure will be only minimally disruptive to the project. In case of resignation, all outstanding advances, including unearned vacation allowances, are deducted from the volunteer's stipend. The volunteer receives his final stipend check three to five weeks after regional submission of the termination papers to ACTION/Washington.

§ 1213.5-4 Sponsor request for removal of volunteer.

The sponsoring organization may request ACTION to remove a volunteer whose performance in its view is unsatisfactory at any time. Before resorting to a formal request for removal the sponsor should contact the appropriate ACTION state official to seek help in trying to resolve any problem with a volunteer. The sponsor may then prepare a written request for removal and submit it to the Regional Office. ACTION may, depending on the circumstances, follow one of three courses of action: (a) Suspend the volunteer, (b) terminate him, or (c) transfer him to another project.

§ 1213.5-5 Suspension and termination.

(a) *Causes.* ACTION may suspend or terminate a volunteer for any of the following reasons:

(1) Conviction of any criminal offense under Federal, state, or local statute or ordinance;

(2) Violation of any provision of the Domestic Volunteer Service Act of 1973, or any ACTION policy, regulation or instruction;

(3) Failure, refusal or inability to perform prescribed project duties as outlined in the project proposal and directed by the sponsoring organization to which the volunteer is assigned;

(4) Involvement in activities which substantially interfere with the volunteer's performance of his/her duties on the project;

(5) Intentional false statement, omission, fraud, or deception in obtaining selection as a volunteer;

(6) Any conduct on the part of the volunteer which substantially diminishes his/her effectiveness as a volunteer;

(7) Inability to perform the project duties because of serious illness, medical disability, or pregnancy, as determined by the attending physician, in accordance with ACTION policy;

(8) Lack of a viable job for which the volunteer is qualified if the initial job assignment ends or is terminated prior to completion of a period of service;

(9) Unsatisfactory job performance. Procedures for the suspension and termination of volunteers are contained in part 1210.

(b) *Suspension.* Volunteers may be suspended for up to 30 days to enable ACTION to determine whether termination proceedings should be started against the volunteer. Suspension is not warranted if sufficient evidence exists to start termination proceedings.

(c) *Termination of or refusal to renew ACTION/sponsoring organization agreement.* If the Memorandum of Agreement between ACTION and a sponsoring organization is terminated or not renewed, a volunteer who is removed from the project and whose removal was not caused by conduct which would otherwise be grounds for termination is entitled to the following administrative considerations:

(1) Reassignment to another project where possible.

(2) If reassignment is not possible at the time of project close-out, and if the volunteer wishes to resume service (provided that his/her job performance has been satisfactory), he/she may, at the discretion of the Regional Director, receive special consideration for reinstatement as soon as an appropriate slot is open.

If a volunteer wishes, he/she may terminate without prejudice in the event that a Memorandum of Agreement between ACTION and the sponsor is terminated.

(d) *Deselection of a provisional volunteer.* The Regional Director may deselect a provisional volunteer on the grounds listed in paragraph (a) of this section or for a failure to meet training or selection standards during pre-service orientation. Procedures for such deselection are contained in part 1210.

[40 FR 10670, Mar. 7, 1975; 46 FR 6951, Jan. 22, 1981]

Subpart F—Special Conditions Affecting Volunteer Service

§ 1213.6-1 Sponsor's employment of volunteer.

ACV volunteers make a commitment to one full year of ACTION service. Similarly, ACTION asks that the sponsor on his part must honor the spirit of that commitment and refrain from offering fully paid employment to volunteers during their first year of service. Volunteers may not perform services or duties or engage in activities for which the sponsor receives or requests any compensation. Volunteers may not receive any other compensation, directly or indirectly, from a sponsor while serving as a volunteer.

§ 1213.6-2 Nondisplacement of employees and impairment of contracts of service.

An ACV volunteer's assignment is limited to activities that would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service. (part 1216 implements this provision.)

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§ 1213.6-3 Nonappropriate assignments.

(a) An assignment is not appropriate for a volunteer if:

(1) The service, duty, or activity is principally administrative or clerical, or

(2) The volunteer is not directly in contact with groups or individuals who are to be served by the project or is not performing services, duties, or engaged in activities which are authorized under section 122(a) of the Act.

§ 1213.6-4 Political activities and limitation of unlawful activities.

(a) ACV volunteers are covered by the Hatch Act to the same extent as Federal employees. This Act prohibits volunteers from engaging in partisan political activities of any sort at any and all times during their terms of service, including periods of official leave.

(b) Section 403 of Pub. L. 93-113 requires that a sponsor's project be operated in such a manner as to avoid involvement of ACV volunteers in any partisan or nonpartisan political activity in an election for public or party office, voter transportation during elections, and voter registration drives.

(c) While engaged in carrying out their duties volunteers may, as a part of the project, participate in lawful and nonpolitical demonstrations and protest activities which are approved by the sponsor as a part of its project activity and which are not in violation of any ACTION policies.

§ 1213.6-5 Nondiscrimination.

Part 1203 provides regulations concerning nondiscrimination in ACTION programs and activities.

(a) No person with responsibilities in the operation of an ACV project shall discriminate with respect to such program because of race, creed, belief, color, national origin, sex, age, or political affiliation.

§ 1213.6-6 Religious activities.

Volunteers will not give religious instruction, conduct worship services, or engage in any other religious activity as part of their duties. Volunteers who serve in an institution that gives religious instruction or engages in other

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religious activities will not be used as replacements for regular personnel of the institution. For example, volunteers assigned to serve in a program conducted under the auspices of a church-related school may not be used as substitutes for regular teachers in the school. They may, however, work in new programs which are carried on in addition to the school's regular programs and which are conducted in conformance with the above restrictions.

§ 1213.6-7 Evaluation.

(a) On a quarterly basis and two months prior to the termination of a volunteer's year of service, and at any other time which circumstances may dictate, ACTION may inspect that portion of a project with which the volunteer is involved. The purpose of the inspection will be to independently observe and judge the extent to which the volunteer's work has contributed to the objectives of the program described in the project proposal.

(b) The sponsor is expected to cooperate fully with ACTION representatives, and ACTION will in turn review results of the evaluation with the sponsor.

§ 1213.6-8 Limitation on labor and anti-labor activities.

Volunteers may not engage in any activities, services, or duties which assist any labor or anti-labor organizing activity, or related activity.

§ 1213.6-9 Loans and debts.

(a) ACVs have the same legal and financial responsibilities as do all other persons. Volunteers are encouraged to pay all legal debts promptly to avoid creating a situation which would impair the volunteer's ability to function. In cases of continued financial irresponsibility by a volunteer to the extent of embarrassment or adverse reflection upon the sponsor organization's project or ACTION, administrative or disciplinary action may be taken by the Regional Office, up to and including termination, where appropriate.

(b) Volunteers are not authorized to obtain extension of credit by representing themselves as a Federal Government employee.

Subpart G—Miscellaneous**§ 1213.7-1 Student loan deferrals.**

(a) The Higher Education Act of 1965, as amended, exempts full-time domestic volunteers from repayment of National Defense Education Act loans for a period of service not to exceed three years. Volunteers wishing to defer repayment of NDEA loans must obtain the necessary forms from their universities. Regional Offices are authorized to certify these forms, but if the university or volunteer should submit the form to Headquarters for certification, it will be sent to the appropriate Regional Office for completion.

(b) If the volunteer is still in service at the time of ACTION's certification, his anticipated termination date will be furnished to the lender.

(c) Repayment of other college loans may also be deferred. These repayments, however, are deferred at the discretion of the lender. If the lender is willing to defer payment, volunteers must obtain the necessary forms from the lender and forward them to the Regional Office for certification. If forms are not available from the lender, a letter to the university or lender may be prepared certifying the dates of the volunteer's service.

§ 1213.7-2 Death benefits.

In case of the death of a volunteer away from his home of record, certain costs associated with transportation of the body are reimbursable either under the Federal Employees Compensation Act or ACTION policy. Volunteers whose death results from personal injury or illness sustained in the performance of his project duties are eligible for reimbursement of certain funeral expenses. Monthly benefits for eligible dependents of deceased volunteers may be available under the Federal Employees Compensation Act. In certain other unusual circumstances, payment of certain funeral expenses for volunteers not meeting the above requirements may be authorized.

§ 1213.7-3 Firearms.

ACTION volunteers may not normally possess, use, or carry firearms. If a volunteer wishes to keep firearms for hunting, approval must be obtained

from the sponsor, State Program Director and the ACTION Regional Director in the region where the volunteer is assigned. The volunteer must request approval for possession or use of firearms from his sponsor and his State Program Director. If he receives their approval, his request may then be considered by his ACTION Regional Director. If approval is granted by the ACTION Regional Director, the volunteer must adhere to all state and local regulations relating to the possession and use of firearms.

**PART 1214—ENFORCEMENT OF
NONDISCRIMINATION ON THE
BASIS OF HANDICAP IN PRO-
GRAMS OR ACTIVITIES CON-
DUCTED BY ACTION**

Sec.

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1214.170 Compliance procedures.

AUTHORITY: 29 U.S.C. 794; 42 U.S.C. 5057.

SOURCE: 55 FR 47761, Nov. 15, 1990, unless otherwise noted.

§ 1214.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.